

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

<b>OPTIMUM CONTENT PROTECTION,</b>	§	
<b>LLC,</b>	§	
	§	<b>NO. 6:13cv741-MHS-KNM</b>
<b>Plaintiff,</b>	§	
	§	<b>PATENT CASE</b>
<b>vs.</b>	§	
	§	
<b>MICROSOFT CORP.,</b>	§	
	§	
<b>Defendant.</b>	§	

**ORDER ADOPTING REPORT AND RECOMMENDATION**  
**OF UNITED STATES MAGISTRATE JUDGE**

The above entitled and numbered civil action was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. The Report and Recommendation of the Magistrate Judge (“R&R”), which recommends denial of Microsoft’s Motion to Dismiss Pursuant to FED. R. CIV. P. 12(b)(7) or Alternatively to Dismiss or Transfer Pursuant FED. R. CIV. P. 12(b)(3), 28 U.S.C. § 1406, and 28 U.S.C. § 1404(a) (Doc. No. 9), has been presented for consideration (Doc. No. 70). Microsoft filed objections (Doc. No. 73) to the Report and Recommendation, arguing that ARC is a necessary party who cannot be joined and transfer is required under the asserted forum selection clause. Doc. No. 73 at 4, 7–8.

Having made a *de novo* review of the objections filed by Microsoft, the Court finds that the findings, conclusions, and recommendation of the Magistrate Judge are correct and Microsoft's objections are without merit. Microsoft has not shown that joinder is clearly infeasible or that the forum selection clause is applicable to this dispute. Therefore, the

Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge as the findings and conclusions of this Court. Accordingly, all objections are overruled.

**SIGNED this 7th day of October, 2014.**

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE